

REMARKS/ARGUMENTS

Claims 1-4, 6-10, 13, 14, 29, 30 and 33-40 are pending of which claims 33-40 are withdrawn from consideration. Claims 5, 11-12, 15-28, and 31-32 are cancelled and claims 1, 2, 9, 13, 29 and 30 are amended.

The disclosure is objected to because of the missing information on line 34 of page 17. In view of the amendment to the disclosure, it is respectfully requested that the above objection be withdrawn. The specification is also amended to a correct typographical error. No new matter is added.

Claims 1-9, 11, 12, 15-23, 25, 26 and 29-32 are rejected 35 U.S.C. 102(b) as being fully anticipated by Kuzma et al. 2003/0125785 (Kuzma '785); claims 1-4, 6, 7, 9, 11-23 and 25-32 are rejected 35 U.S.C. 102(b) as being fully anticipated by Hansen et al. 4,261,372; and claims 10 and 24 are rejected 35 U.S.C. 103(a) as being obvious over Kuzma '785 in view of Kuzma et al. 6,309,410.

Amended independent claim 1 includes, among other limitations, "an elongate member having a first portion having . . . at least one electrode supported thereon," and "at least one second portion having . . . at least one electrode supported thereon." Kuzma '785 does not teach the above limitation.

Rather, Kuzma '785 discloses a disconnection system for use with a cochlear electrode (20) and positioner (30) including a cuff or band (12) that is placed and secured, e.g., glued, to the electrode carrier near its distal tip (21). (See, for example, the Abstract and FIGS. 1 and 2A). The Examiner construes the cochlear electrode 20 and the positioner 30 of Kuzma '785 as the first portion and the second portion of the claimed elongate member. However, the alleged second portion, that is the positioner 30, does not include "at least one electrode supported thereon," as required by amended claim 1. Rather, the positioner 30 is simply to be secured to the electrode 20 via a cuff 12. In contrast, each of the first portion and second portion of the claimed elongate member includes at least one electrode to provide electrical stimulation to the cochlea of the implantee.

Consequently, claim 1 is not anticipated by Kuzma '785.

With respect to the Hansen reference, Hansen does not teach "the second portion is positionable through and supported by the first portion," as required by claim 1. Rather, as seen and explained in Hansen, the two fork prongs of the electrode are positioned substantially in parallel and are NOT "positionable through and supported by the" other prong.

As a result, claim 1 is not anticipated by Hansen either and thus is allowable over the cited references.

Amended independent claim 29 includes, among other limitations, "first portion having a . . . lumen for receiving at least a portion of a second tissue stimulating portion." As explained above, the two fork prongs of the electrode of Hansen are positioned substantially in parallel do NOT have "a lumen for receiving at least a portion of a second tissue stimulating portion."

Therefore, claim 29 is not anticipated by Hansen either and thus is allowable over the cited references.

Dependent claims 4 and 30 include the additional limitation of wherein the first portion is "substantially tubular." Neither Kuzma '785, nor Hansen teach or suggest the above limitation.

With respect to Kuzma '785, none of the cochlear electrode 20 and the positioner 30 of Kuzma '785 are tubular. Applicant respectfully disagrees with Examiner's assertion that FIG. 7A shows the first portion 30 to be tubular. (Office action, page 3, second paragraph). Rather, FIG. 7A simply shows a lumen 54 that passes through the body of the positioner 30. (Paragraph [0039, lines 3-5]. This does not make the positioner 30 a tubular portion. In fact, Kuzma '785 describes how the positioner 30 is made in paragraph [0042]; "[w]hile the material 55 is still in a semi-liquid state, e.g., prior to its curing, the body strip portion 52b and anchoring portion 52c are inserted into the lumen 55 so as to be fully embedded within the not-yet cured material 55. Then, an additional amount of silicone or similar material 56 is placed over the end of the positioner 31 so as to completely surround the offset portion of the stip 52. The material 56 may be formed to provide a relatively smooth rounded tip 31 for the positioner. The materials 55 and 56 are then allowed to cure, leaving the stip 52 fully embedded within the tip 31 of the positioner

Appln No. 10/785,485
Amdt date May 21, 2007
Reply to Office action of February 22, 2007

30. (Id, underlining added.) Therefore, after the materials 55 and 56 are cured, the resulting positioner 30 will NOT be tubular to have "the second portion positionable through."

Alternatively, the Examiner points to the cuff 12 as being tubular. However, this cuff 12 does not in any way constitute the claimed "tubular first portion" of the elongate member that has "at least one electrode supported thereon." Rather, cuff 12 is simply used to disconnect the positioner 30 from the electrode 20. (See, Abstract).

As a result, dependent claims 4 and 30 are also independently patentable over Kuzma '785.

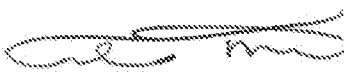
With respect to Hansen, none of the fork prongs of the electrode of Hansen is tubular. Rather, each has a conductor side and a electrode opposite side. (Col. 3, lines 6-9).

Therefore, dependent claims 4 and 30 are also independently patentable over Hansen.

Remaining dependent claims 2-3, 6-10, and 13-14, are dependent from allowable independent claim 1 and therefore include all the limitations of independent claim 1 and additional limitations therein. Accordingly, these claims are also allowable over the cited references, as being dependent from a allowable independent claim and for the additional limitations they include therein.

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is now in condition for allowance, and accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 

Raymond R. Tabandeh
Reg. No. 43,945
626/795-9900

RRT/clv

CLV PAS729234.2-*05/21/07 2:13 PM